

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USAV Secured Lender Group,
USAVflow Limited,

Appellants,

- v -

Avianca Holdings S.A., et al.,

Appellees.

Case Nos.:

1:20-cv-08008-LTS

1:20-cv-08364-LTS

STIPULATION AND [PROPOSED] ORDER FOR
TEMPORARY STAY OF APPEALS

This Stipulation is entered into this 3rd day of December, 2020, by and between USAVflow Limited (“USAV”) and the group of lenders under USAV’s loans (the “Lenders,” and together with USAV, “Appellants”), and appellees Avianca Holdings S.A. and its affiliated debtors in the above-captioned chapter 11 cases (“Avianca” or “Appellees,” and together with Appellants, the “Parties”).

1. On June 23, 2020, Avianca filed a motion in the United States Bankruptcy Court for the Southern District of New York (Glenn, J.) (the “Bankruptcy Court”) seeking to reject agreements with USAV. *See* [Bk. Dkt. 306] (the “Rejection Motion”).

2. On September 4, 2020, the Bankruptcy Court entered a Memorandum Opinion Granting in Part and Denying in Part the Rejection Motion. *See* [Bk. Dkt. 850] (the “Rejection Order”).

3. On September 18, 2020, USAV and the Lenders appealed certain of the Rejection Order’s findings and determinations to this Court. *See* [Bk. Dkts. 959, 960] (the “Appeals”).

4. On October 28, 2020, the Bankruptcy Court entered an order (i) directing the parties to participate in mediation regarding the claims at issue in the Appeals, and (ii) staying all litigation and related matters pending the outcome of the mediation. *See* [Bk. Dkt. 1125] (the “Mediation Order”).

5. As a result of the Mediation Order, the Parties and their counsel are participating in court-ordered mediation that could lead to a settlement of the claims and disputes at issue in the Appeals.

6. In order to preserve judicial resources, maximize judicial efficiency, and minimize expense on the Parties, the Parties hereby agree that the Appeals shall be stayed pending resolution of the mediation. If the court-ordered mediation does not lead to a settlement of the claims and disputes at issue in the Appeals, the Appellants’ opening brief, which is currently due on December 7, 2020, shall be due seven (7) days after the Bankruptcy Court has lifted the stay as to all matters stayed in the Mediation Order. Thereafter, the briefing schedule set forth in the applicable provisions of Federal Rules of Bankruptcy Procedure 8015-8018 shall apply unless otherwise ordered by the Court.

[Remainder of Page Intentionally Omitted]

Respectfully submitted,

Dated: December 3, 2020

New York, New York

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The parties must file a joint status report by March 31, 2021, if briefing has not recommenced or the matter has not been resolved by that date. DE# 13 resolved.

IT IS SO ORDERED this 3rd day of December, 2020.

/s/ Laura Taylor Swain

THE HONORABLE LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE